

APPEAL NO. 031726
FILED AUGUST 14, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 4, 2003. With respect to the issue before him, the hearing officer determined that the respondent's (claimant) compensable injury of _____, extends to include a lumbar injury but does not extend to include a bilateral shoulder injury. In its appeal, the appellant (carrier) argues that the hearing officer's determination that the compensable injury extends to include a lumbar injury is against the great weight and preponderance of the evidence. The appeal file does not contain a response to the carrier's appeal from the claimant. The hearing officer's determination that the compensable injury does not extend to include a bilateral shoulder injury was not appealed and is now final. Section 410.169

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury of _____, includes a lumbar spine injury. That issue presented a question of fact for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165(a). As the trier of fact, the hearing officer resolves the conflicts and inconsistencies in the evidence and decides what facts the evidence has established. Texas Employers Ins. Ass'n v. Campos, 666 S.W.2d 286 (Tex. App.-Houston [14th Dist.] 1984, no writ). The hearing officer was persuaded that the claimant sustained his burden of proving that he injured his lumbar spine in the incident at work while he was unloading lawn mowers. The factors emphasized by the carrier in challenging the hearing officer's extent-of-injury determination on appeal are the same factors it emphasized at the hearing. The significance, if any, of those factors was a matter for the hearing officer in resolving the issues before him. Nothing in our review of the record reveals that the hearing officer's determination that the compensable injury includes an injury to the lumbar spine is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to reverse that determination on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **TEXAS PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION for Reliance National Indemnity Company, an impaired carrier** and the name and address of its registered agent for service of process is

**MARVIN KELLY
9120 BURNET ROAD
AUSTIN, TEXAS 78758.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Veronica Lopez-Ruberto
Appeals Judge

Edward Vilano
Appeals Judge